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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R. S .A. No. 3463 of 2006
Date of decision: 5.11.2007

Arjan Singh and others **...Appellants**

Versus

Municipal Council, Banur and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Avnish Mittal, Advocate for the appellants.

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RAJESH BINDAL, J.

The plaintiffs are in second appeal before this Court against concurrent findings of fact whereby both the Courts below have non suited them in a suit for permanent injunction praying for a restraint against the respondents/defendants from interfering into the possession of the appellants/plaintiffs in the suit property.

The claim set up in the plaint is that appellants/plaintiffs are owners in possession of the property and the same was being used by them as a Bara for various purposes including domestic and agricultural. Cause of action to file the suit arose on account of respondents threat to dispossess the appellants. However, the claim made by the appellants was disputed by the respondents with the plea that site in dispute is part of a public chowk and vested with the Municipal Council, Banur and the same was being used by the general public for common purposes. The appellants tried to encroach upon the land in September, 1999 and twice the encroachment was removed on October 18, 1999 and November 16, 1999 and on obstruction by the appellants, even FIR No.140 dated November 27, 1999 was also registered against them. Though the claim made by the appellants was that they are owners in possession of the suit land, however, they could not prove on record any document showing the ownership of the property and as to in what manner and capacity they were in possession of the property. Even the Local Commissioner appointed by the Court also found

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that there was a telephone pole existing at the site in dispute. Once the appellants had failed to prove on record either ownership of the property in dispute or the capacity or the manner in which they were in possession of the property, in my opinion, no illegality had been committed by the Courts below in non suiting the appellants especially when no material has been pointed out which has either been misread by the Courts below or has not been considered.

Accordingly, I do not find any merit in the present appeal as the same does not involve any substantial question of law.

Dismissed.

November 05, 2007 **(Rajesh Bindal)**
Pka **Judge**